S.2477

DRAFT:WPB:ndl (23 July 1976)

Dear Mr. Chairman:

I am writing to offer the views of the Central Intelligence Agency on lobbying legislation which the Subcommittee on Administrative Law and Governmental Relations is presently considering.

As you know, on 15 June 1976 the Senate passed S.2477, the "Lobbying Disclosure Act of 1976." Section 3(g)(4) of S.2477 specifically provides that the term "lobbying communication" and "lobbying solicitation" do not include "a communication or solicitation made by an officer or employee of the executive branch, acting in his official capacity..." We believe that it is important that the House include such an express exemption for executive branch officials in its lobbying legislation.

We would also like to direct the Committee's attention to a serious problem posed by Section 3(e)(3) of S.2477. This provision originated as a floor amendment. It provides that the term "lobbying communication" means:

> "...a communication with the executive branch urging or requesting any officer or employee of the executive branch to act or not to act, or to act in a certain manner, concerning--
>
> (A) any contract to which the Federal Government is or may become a party...,
>
> where such contract...involves an obligation incurred by the Federal Government of $1,000,000 or more."

This language is exceedingly broad and, when taken together with Section 3(a)(2), could jeopardize the security of sensitive intelligence projects.

Section 3(a)(2) defines a "lobbyist" as an organization which engages on its own behalf in twelve or more "oral lobbying communications" in any quarterly period, acting through its own paid employees. Thus, the net effect of Section 3(e)(3) is that a contractor who has already been awarded a contract may be deemed a "lobbyist" and required to file the requisite reports if it merely discusses [redacted] matters relating to the performance of a contract with officers of the contracting agency.

In furtherance of its foreign intelligence mission and pursuant to the authorities granted in the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a - 403j), this Agency enters into contracts for such things as the development of technical collection systems. In some cases, the very fact that a particular contract exists is itself extremely sensitive information, and, of course, frequently the subject matter of Agency contracts must be protected from public disclosure. However, under Section 3(e)(3), it is possible that, if employees of a contractor hold twelve or more discussions with Agency officers regarding matters relating to the performance of the contract, such as the advantages of a particular technical course of action or the advisability of establishing certain security procedures, the contractor could be deemed a "lobbyist" and, therefore, be required to file public reports on its discussions. Such disclosure could compromise sensitive

intelligence sources and methods which the Director of Central Intelligence is obliged to protect from disclosure under Section 102(d)(3) of the National Security Act of 1947.

We hope that your Committee will not extend lobbying reporting requirements to the kinds of contacts discussed above.

Sincerely,

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Deputy Director